

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

In re: PHARMACEUTICAL INDUSTRY)
AVERAGE WHOLESALE PRICE)
LITIGATION)

THIS DOCUMENT RELATES TO:

)	MDL No. 1456
)	Civil Action No. 01-12257-PBS
<i>United States of America ex rel. Ven-a-</i>)	
<i>Care of the Florida Keys, Inc. v. Abbott</i>)	
<i>Laboratories, Inc.,</i> Civil Action No. 06-)	Subcategory No. 06-11337-PBS
11337)	Subcategory No. 05-11084-PBS
)	Subcategory No. 07-10248-PBS
<i>United States of America ex rel. Ven-a-</i>)	
<i>Care of the Florida Keys, Inc. v. Dey LP, et</i>)	Hon. Patti B. Saris
<i>al.,</i> C.A. No. 05-11084)	
)	
<i>United States of America ex rel. Ven-a-</i>)	
<i>Care of the Florida Keys, Inc. v.</i>)	
<i>Boehringer Ingelheim Corp., et al.,</i> Civil)	
Action No. 07-10248-PBS)	

**MOTION TO ENLARGE DEADLINE FOR PLAINTIFFS' SUMMARY
JUDGMENT REPLIES AND SUR-REPLIES**

Plaintiffs United States of America and Relator Ven-A-Care of the Florida Keys, Inc., move for a one-week enlargement of time from the current September 15, 2009, deadline to September 22, 2009, to file their Replies to Boehringer Ingelheim Corporation ("BIC"), Boehringer Ingelheim Pharmaceuticals, Inc. ("BIPI"), Roxane Laboratories, Inc., and Roxane Laboratories, Inc., n/k/a Boehringer Ingelheim Roxane, Inc. (collectively, "Roxane/BI"), Dey, Inc., Dey L.P., Inc., and Dey L.P. (collectively "Dey"), and Abbott Laboratories, Inc. ("Abbott") ("Defendants' ") Oppositions to Plaintiffs' Cross-Motions for Summary Judgment, and their incorporated Sur-replies to Defendants' Replies in

Support of Defendants' Summary Judgment Motions, and all related Local Rule 56.1 Filings.

On August 28, 2009, Defendants collectively filed more than 1,500 pages of typewritten briefing and factual responses as their common and individual summary judgment responses and replies, together with more than 600 exhibits. (Common filings of all three Defendants: Master Docket Nos.: 6429, 6438, 6439, 6447, 6449, 6450, 6451, 6452, 6453, 6454, 6459, and Subcategory Docket No. 409, 414, 415; Abbott filings: Master Docket Nos. 6415, 6440, 6448, 6455, 6456, 6464, 6465, and Subcategory Docket Nos. 393, 416, 423, 424 & 425; Dey filings: 6426, 6428, 6430, 6432, 6445 and Subcategory Docket Nos. 406, 408, 411, 412, and 422; Roxane filings: 6424, 6425, 6427, 6431 and Subcategory Docket Nos. 404, 405, 407 & 410). Significantly, Defendants filed approximately 250 additional pages of new facts not previously raised by the Defendants in their initial summary judgment briefings. Moreover, Abbott's counsel continued to file (or correct) the Defendants' declaration and exhibit filings as late as September 2, 2009. Plaintiffs were unable to assess the full magnitude of Defendants' filings until September 3, 2009.

Because Defendants' summary judgment response and reply filings were significantly more voluminous than Plaintiffs expected, Plaintiffs seek a one-week enlargement to prepare their replies and sur-replies. Plaintiffs do not believe that the one-week enlargement sought herein will impact this Court's October 20, 2009, summary judgment hearing date. In conformity with LR 7.1, counsel for the Government made

inquiries to Defendants' counsel, and Defendants oppose the relief sought herein¹.

WHEREFORE, based upon the foregoing and for good cause shown, Plaintiffs, the United States of America and Ven-A-Care of the Florida Keys, Inc. respectfully request that this Court enter an order enlarging the deadline for the Plaintiffs to file their Replies to Defendants' Oppositions to Plaintiffs' Cross-Motions for Summary Judgment, and their incorporated Sur-replies to Defendants' Replies in Support of Defendants' Summary Judgment Motions, and all related Local Rule 56.1 Filings.

Respectfully submitted,

¹With Plaintiffs' consent, the Roxane Defendants BIC and BIPI filed a motion to enlarge seeking an identical one-week extension to September 22, 2009 to reply to the Plaintiffs' responsive summary judgment filings, which were comparatively far less voluminous than Defendants' responsive summary judgment filings.

For the United States of America,

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CERTIFICATE OF SERVICE

I hereby certify that I have this day caused an electronic copy of the above to be served MOTION TO ENLARGE DEADLINES FOR PLAINTIFFS TO FILE THEIR REPLIES TO DEFENDANTS' OPPOSITIONS TO PLAINTIFFS' CROSS-MOTIONS FOR SUMMARY JUDGMENT AND INCORPORATED SUR-REPLIES TO DEFENDANTS' REPLIES IN SUPPORT OF DEFENDANTS' SUMMARY JUDGMENT MOTIONS, AND TO RELATED 56.1 FILINGS on all counsel of record via electronic service pursuant to Paragraph 11 of Case Management Order No. 2 by sending a copy to LexisNexis File & Serve for posting and notification to all parties.

Dated: September 4, 2009

/s/ Ann M. St. Peter-Griffith

Ann M. St. Peter-Griffith